

IOWA BOARD OF NURSING

---

In RE: Petition for	)	Declaratory Ruling No. 99
Declaratory Ruling Filed By:	)	
Jana Dawson, R.N.	)	Scope of Practice of the LPN
Larry Harris	)	in Providing Care to a Child
October 1, 1998	)	With Multiple Health Problems
	)	in the Home Setting

---

A petition for declaratory ruling was filed with the Iowa Board of Nursing by J. R. "Lynn" Boes, attorney, on behalf of the petitioners Jana Dawson, R.N., Supervising Nurse at TLC Home Health Care, L.L.C., and Larry Harris, owner and administrator of TLC, on October 1, 1998.

On September 22, 1998, Stephen C. Robinson, Assistant Attorney General for the Iowa Department of Human Services (DHS), filed a petition to intervene in the petition for declaratory ruling filed by Jana Dawson, RN, Larry Harris, and TLC Home Health.

A response to the petition of intervention filed on behalf of DHS was filed by J. R. "Lynn" Boes on October 1, 1998.

The Board is authorized to issue declaratory rulings "as to the applicability of any statutory provision, rule, or other written statement of law or policy, decision, or order of the agency" pursuant to 1997 Iowa Code § 17A.9. See also 655 IAC 9.

The questions presented to the Board by Jana Dawson and Larry Harris are as follows:

**May a registered nurse delegate the care of the client for whom this ruling is being sought to a licensed practical nurse for eight to sixteen hours**

per day without having the registered nurse in the proximate area?

Does the nursing care described for this client fall within the definition of "supportive and restorative care" such that it meets the exception for no registered nurse requirement in the proximate area?

If the answer to the foregoing questions are yes, how could a registered nurse provide the initial assessment and ongoing application of the nursing process (including assessments) when the client's condition changes so frequently without being present in the proximate area?

Questions presented to the board by DHS are as follows:

Would an LPN be appropriate in the case of this client?

Can an LPN perform daily and ongoing assessments without an RN in the proximate area, so long as the initial daily assessment is provided by the RN?

The Board of Nursing hereby refuses to issue a declaratory ruling. In accordance with 655 IAC 9.5(17A), an agency may refuse to issue a declaratory ruling for good cause.

655 IAC 9.5(17A), paragraph 4 is as follows:

The questions presented by the petitioner are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.

The petitioner currently has two appeals before the Iowa Department of Inspections and Appeals Division of Appeals and Fair Hearings (Appeal 9900219) and (Appeal 9900992).

655 IAC 9.5(17A), paragraph 6 is as follows:

The facts of questions presented in the petition are unclear, over broad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.

The board refuses to issue a declaratory ruling in this case because the facts are unclear. Information provided in the petition filed by DHS differs substantially from that provided by the petitioners from TLC.

WHEREFORE, the petition for declaratory ruling is disposed of by this refusal to rule.

Sandra K Bane

Sandra K. Bane, R.N., B.S.N.  
Chairperson  
Iowa Board of Nursing

December 10, 1998

Date

Lorinda K Inman

Lorinda K. Inman, R.N., M.S.N.  
Executive Director  
Iowa Board of Nursing

December 10, 1998

Date